

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

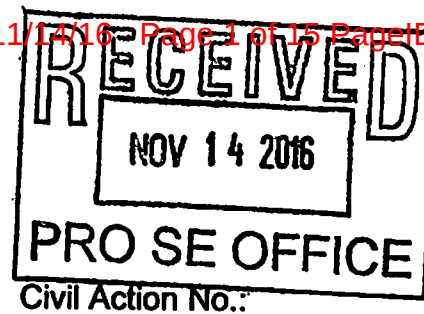
MARK BELLI,

Plaintiff, *pro se*,

-against-

THE CITY OF NEW YORK, NYPD CAPTAIN
JOHN DOE, NYPD DETECTIVE
MARK LEONARD

Defendants.



CV 16- 6127
COMPLAINT

JURY DEMANDED TRIAL

CHEN, J.

BLOOM, M.J.

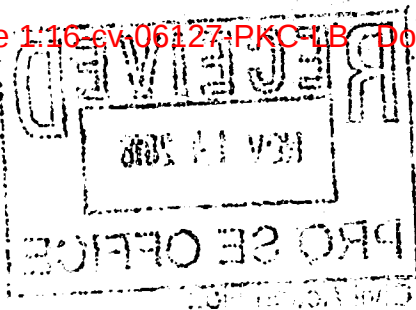
Plaintiff Mark Belli, appearing *pro se*, hereby brings this action under 42 U.S.C. § 1983 to redress his civil and legal rights, and alleges as follows:

PRELIMINARY STATEMENT

1. This is a civil rights action in which the Plaintiff, Mark Belli, seeks relief for the Defendants' violations of his rights secured by the Civil Rights Act of 1871, under 42 U.S.C. § 1983, by the United States Constitution, including its Fourth and Fourteenth Amendments, and by the laws and Constitution of the State of New York. Plaintiff seeks compensatory and punitive damages, an award of costs, interest and attorney's fees, and such other and further relief as this Court deems just and proper.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. § 1983 and 1988, and the Fourth and Fourteenth Amendments to the United States Constitution. Jurisdiction is conferred upon this Court by 42 U.S.C. §§ 1331 and 1343, this being an action seeking redress for the violation of the Plaintiffs' constitutional and civil rights.



GOLD, M.J.

3. Plaintiff further invokes this Court's supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, over any and all state law claims and as against all parties that are so related to claims in this action within the original jurisdiction of this court that they form part of the same case of controversy.

4. Venue in this District is proper under 28 U.S.C. § 1391 (b) and (c) in that the events giving rise to this claim occurred within the boundaries of the Eastern District of New York.

JURY TRIAL DEMANDED

5. Plaintiff demands a trial on each and every one of his claims as pleaded herein.

PARTIES

6. At all times relevant to this action, MARK BELLI was a resident of Kings County, New York.

7. Defendant CITY OF NEW YORK is and was at all times relevant herein a municipal entity created and authorized under the laws of the State of New York. It is authorized by law to maintain a police department which acts as its agent in the area of law enforcement and for which it is ultimately responsible. Defendant CITY OF NEW YORK assumes the risks incidental to the maintenance of a police force and the employment of police officers. Defendant CITY OF NEW YORK was at all times relevant herein the public employer of Defendant Captain JOHN DOE, and NYPD Detective MARK LEONARD.

8. Defendants Doe and Leonard are and were at all times relevant herein duly appointed and acting officers, servants, employees and agents of the New York

City Police Department, a municipal agency of Defendant CITY OF NEW YORK. At all times relevant herein, the individual Defendants were acting under color of the laws, statutes, ordinances, regulations, policies, customs and/or usages of the State of New York and the New York City Police Department, in the course and scope of their duties and functions as officers, agents, servants and employees of Defendant CITY OF NEW YORK, were acting for, and on behalf of, and with the power and authority vested in them by the CITY OF NEW YORK and the New York City Police Department, and were otherwise performing and engaging in conduct incidental to the performance of their lawful functions in the course of their duties. They are sued individually and in their official capacity.

9. By the conduct, acts, and omissions complained of herein, Defendants violated clearly established constitutional standards under the Fourth and Fourteenth Amendments to the United States Constitution of which a reasonable police officer under the circumstances would have known.

NOTICE OF CLAIM

10. Plaintiff timely filed a Notice of Claim with the Comptroller of the City of New York, setting forth the facts underlying Plaintiff's claim against the New York Police Department, Detective Leonard and Defendant CITY OF NEW YORK.

11. The City assigned a claim number to Plaintiff's claim,

12. To date, no answer has been received by Plaintiff and no compensation has been offered by Defendant CITY OF NEW YORK in response to this claim.

13. This action has been commenced within one year and ninety days of the date of occurrence of the events giving rise to this Complaint.

STATEMENT OF FACTS

14. On the afternoon of August 15, 2015, Mark Belli was ordered to surrender himself upon alleged violation of an Order of Protection by Detective Leonard of the 68th Precinct Detective Squad.

15. Plaintiff's s ex-wife, Mary K. Belli, and his daughter, Maggie Belli, had a limited Order of Protection against Plaintiff which permitted Plaintiff limited access to the garage of his residence.

16. Despite the fact that Detective Leonard was advised that Plaintiff had no contact with Mary Belli or with Maggie Belli, the subjects of the Order of Protection Detective Leonard insisted that Plaintiff turn himself in to be arrested.

17. Upon information and belief, the New York Police Department recklessly disregarded Plaintiff's statements and the statements of an eye-witness to any contact and/or occurrence which could have purportedly given rise to the violation of the Order of Protection.

18. Upon information and belief, the New York Police Department did not adequately investigate the claims that the Order of Protection had been violated and there, was in fact no validity to the fact that the Order of Protection had been violated.

19. The Detective advised Plaintiff that he had no discretion and that It is, and was, New York Police Department protocol to make arrests in situations such as Plaintiff's when there is an alleged violation of an Order of Protection.

20. Plaintiff's arrest with respect to the order of protection was made without probable cause.

21. Subsequent to Plaintiff's arrest, the Court and the King's County District Attorney's Office was informed that although the limited Order of Protection permitted Plaintiff access to the detached garage for the purpose of obtaining tools for work, Plaintiff never entered the garage.

22. Subsequent to Plaintiff's arrest, the Court and the King's County District Attorney's Office was advised that the Plaintiff did not have any contact with Mary Belli, Plaintiff's ex-wife, or with Maggie Belli, Plaintiff's daughter, the subjects of the Order of Protection.

23. Subsequent to Plaintiff's arrest, the Court and the King's County District Attorney's Office was advised that Plaintiff's sole contact with any persons at the residence was with Plaintiff's son which took place off the property, and that there were no restrictions on contact between Plaintiff and his son.

24. Any allegations that Plaintiff purportedly violated the Order of Protection were unsubstantiated.

25. As a consequence of the actions taken by the New York Police Department, the Court and the King's County District Attorney's Office, Plaintiff was deprived of access to his home and was forced to find alternative housing for an extended period of time and was deprived of his personal belongings.

26. As a consequence of the actions taken by the New York Police Department, the Court and the King's County District Attorney's Office, Plaintiff was deprived of his limited access to the garage at the residence and was no longer able to pick up his tools and materials and was denied access to the property.

27. As a consequence of the actions taken by the New York Police Department, the charges which were made in connection with the Order of Protection took longer to resolve and caused Plaintiff to be viewed in an unfavorable light by the Court and the King's County District Attorney's Office.

28. Plaintiff lost time from work, suffered physical trauma when during his arrest and incarceration, incurred legal fees and suffered embarrassment, public humiliation and emotional distress.

29. The charges against Plaintiff for the purported violation of the Order of Protection were dismissed on March 28, 2016.

30. The order of protection resolved on May 3, 2016 when Plaintiff accepted an adjournment in contemplation of dismissal returnable on May 2, 2017.

**AS AND FOR A FIRST CAUSE OF ACTION
Deprivation of Rights Under the 14th Amendment and USC §1983**

31. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs as if all were set forth fully herein.

32. The conduct and actions of Defendants acting in concert and under color of law, in authorizing directing and/or causing the Plaintiff to be arrested and prosecuted was excessive and unreasonable and was done with a deliberate indifference and/or with a reckless disregard for the natural and probable consequences of their actions and was designed to and did cause specific physical emotional pain and suffering in violation of Plaintiff's rights as guaranteed under 42 USC §1983, and the Fourth and Fourteenth Amendments to the United States Constitution, including the right to be free from an unreasonable seizure of his person and the right to be free from the use of excessive unreasonable and unjustified force.

33. There was no probable cause for the arrest and prosecution of Plaintiff.

34. As a direct and proximate result of the foregoing, Plaintiff was subjected to great physical and emotional pain and humiliation, was deprived of his liberty and was otherwise damaged and injured.

**AS AND FOR A SECOND CAUSE OF ACTION
Constitutional Violations against the City of New York**

35. Plaintiff re-alleges and incorporates by reference the allegations set forth in each preceding paragraph as if fully set forth herein.

36. Individual defendants and were a direct and proximate cause of the damages and injuries complained of herein.

37. The conduct of the New York Police Department was a direct consequence of the policies and practices of the Defendant City of New York.

38. At all times relevant to this complaint, Defendant City of New York, acting through the New York Police Department had in effect policies practices and customs that condoned and fostered the unconstitutional conduct of the individual defendants.

39. It was the policy and/or custom of the City of New York to inadequately and improperly investigate incidents in which a purported violation of an Order of Protection has occurred resulting in the unlawful arrest of Plaintiff and others in similar circumstances.

40. It was the policy and/or custom of the New York Police Department to arrest Plaintiff and others in similar circumstances without adequate investigation

41. As a result of the above described policies and customs, police officers of the City of New York, including the Defendants, the Defendants believed that their actions would be condoned by the City of New York despite the fact that there was no

probable cause for the arrest and prosecution of Plaintiff and others in similar circumstances.

42. The wrongful policies, practices customs and/or usage complained of herein demonstrated a deliberate indifference on the part of the policy makers of the City of New York, and were the direct and proximate cause of the violations of Plaintiff's rights alleged herein.

**AS AND FOR A THIRD CAUSE OF ACTION
Unlawful Imprisonment /Malicious Prosecution**

43. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs as if all were set forth fully herein.

44. The conduct and actions of Defendants acting in concert and under color of law, in authorizing directing and/or causing the Plaintiff to be arrested and prosecuted was excessive and unreasonable and was done with a deliberate indifference and/or with a reckless disregard for the natural and probable consequences of their actions.

45. There was an absence of probable cause for the arrest and prosecution of Plaintiff.

46. As a consequence of the actions taken by the New York Police Department, the Court and the King's County District Attorney's Office, Plaintiff was deprived of access to his home and was forced to find alternative housing for an extended period of time, and was denied access to his personal belongings.

47. As a consequence of the actions taken by the New York Police Department, the Court and the King's County District Attorney's Office, Plaintiff was deprived of his limited access to the garage at the residence and was no longer able to pick up his tools and materials.

48. As a consequence of the actions taken by the New York Police Department, the charges which were made in connection with the Order of Protection took longer to resolve and caused Plaintiff to be viewed in an unfavorable light by the Court and the King's County District Attorney's Office.

49. Plaintiff lost time from work, suffered physical trauma during the course of his arrest and incarceration, incurred legal fees and suffered embarrassment, public humiliation and emotional distress.

50. As a direct and proximate result of the foregoing, Plaintiff was subjected to great physical and emotional pain and humiliation, was deprived of his liberty and was otherwise damaged and injured.

**AS AND FOR A FOURTH CAUSE OF ACTION
Negligence**

51. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs as if all were set forth fully herein.

52. The conduct and actions of Defendants acting in concert and under color of law, in authorizing directing and/or causing the Plaintiff to be arrested and prosecuted was excessive and unreasonable and was done with a deliberate indifference and/or with a reckless disregard for the natural and probable consequences of their actions.

53. There was an absence of probable cause for the arrest and prosecution of Plaintiff.

54. As a consequence of the actions taken by the New York Police Department, the Court and the King's County District Attorney's Office, Plaintiff was deprived of access to his home and was forced to find alternative housing for an extended period of time.

55. As a consequence of the actions taken by the New York Police Department, the Court and the King's County District Attorney's Office, Plaintiff was deprived of his limited access to the garage at the residence and was no longer able to pick up his tools and materials.

56. As a consequence of the actions taken by the New York Police Department, the charges which were made in connection with the Order of Protection took longer to resolve and caused Plaintiff to be viewed in an unfavorable light by the Court and the King's County District Attorney's Office.

57. Plaintiff lost time from work, suffered physical trauma during his arrest and incarceration, incurred legal fees and suffered embarrassment, public humiliation and emotional distress.

58. As a direct and proximate result of the foregoing, Plaintiff was subjected to great physical and emotional pain and humiliation, was deprived of his liberty and was otherwise damaged and injured.

WHEREFORE, Plaintiff demands the following relief jointly and severally against all of the Defendants:

- a. Compensatory damages in an amount to be determined by a jury;
- b. Punitive damages in an amount to be determined by a jury;
- c. The convening and empanelling of a jury to consider the merits of the claims herein;
- d. Costs, interests and attorneys' fees; and
- e. Such other and further relief as this Court may deem proper.

Dated: November ~~18~~, 2016

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Mark Bell

MARK BELL, Plaintiff, pro se

